

ASSEMBLY BILL

No. 46

Introduced by Assembly Member Walters

December 6, 2004

An act to amend Sections 11054 and 11056 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 46, as introduced, Walters. Controlled substances: Ecstasy (MDMA, XTC).

Existing law classifies controlled substances into 5 schedules and places the greatest restrictions and penalties on the use of those substances placed in Schedule I, including prohibiting the prescribing of any Schedule I controlled substance and requiring the prescription for any Schedule II controlled substance to be prepared in triplicate, as specified. The drug 3,4-Methylenedioxymethamphetamine, also known as MDMA, XTC, or Ecstasy, is a psychoactive drug possessing stimulant and hallucinogenic properties that is not classified within any of the schedules under the state controlled substances law, but is classified as a Schedule I drug under the federal controlled substances law.

This bill would classify the drug 3,4-Methylenedioxymethamphetamine as a Schedule I controlled substance, unless it is contained in a drug product approved pursuant to federal law, as specified, in which case the substance would be classified as a Schedule III controlled substance. By expanding the scope of substances to which existing crimes apply, this bill would create new crimes and impose a state-mandated local program upon local governments.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11054 of the Health and Safety Code is
- 2 amended to read:
- 3 11054. (a) The controlled substances listed in this section are
- 4 included in Schedule I.
- 5 (b) Opiates. Unless specifically excepted or unless listed in
- 6 another schedule, any of the following opiates, including their
- 7 isomers, esters, ethers, salts, and salts of isomers, esters, and
- 8 ethers whenever the existence of those isomers, esters, ethers,
- 9 and salts is possible within the specific chemical designation:
- 10 (1) Acetylmethadol.
- 11 (2) Allylprodine.
- 12 (3) Alphacetylmethadol (except levoalphacetylmethadol, also
- 13 known as levo-alpha- acetylmethadol, levomethadyl acetate, or
- 14 LAAM).
- 15 (4) Alphameprodine.
- 16 (5) Alphamethadol.
- 17 (6) Benzethidine.
- 18 (7) Betacetylmethadol.
- 19 (8) Betameprodine.
- 20 (9) Betamethadol.
- 21 (10) Betaprodine.
- 22 (11) Clonitazene.
- 23 (12) Dextromoramide.
- 24 (13) Diampromide.
- 25 (14) Diethylthiambutene.
- 26 (15) Difenoxin.
- 27 (16) Dimenoxadol.
- 28 (17) Dimepheptanol.
- 29 (18) Dimethylthiambutene.

- 1 (19) Dioxaphetyl butyrate.
- 2 (20) Dipipanone.
- 3 (21) Ethylmethylthiambutene.
- 4 (22) Etonitazene.
- 5 (23) Etoxeridine.
- 6 (24) Furethidine.
- 7 (25) Hydroxypethidine.
- 8 (26) Ketobemidone.
- 9 (27) Levomoramide.
- 10 (28) Levophenacylmorphan.
- 11 (29) Morpheridine.
- 12 (30) Noracymethadol.
- 13 (31) Norlevorphanol.
- 14 (32) Normethadone.
- 15 (33) Norpipanone.
- 16 (34) Phenadoxone.
- 17 (35) Phenampromide.
- 18 (36) Phenomorphan.
- 19 (37) Phenoperidine.
- 20 (38) Piritramide.
- 21 (39) Proheptazine.
- 22 (40) Properidine.
- 23 (41) Propiram.
- 24 (42) Racemoramide.
- 25 (43) Tilidine.
- 26 (44) Trimeperidine.
- 27 (45) Any substance which contains any quantity of
- 28 acetylfentanyl (N-[1-phenethyl-4-piperidiny] acetanilide) or a
- 29 derivative thereof.
- 30 (46) Any substance which contains any quantity of the
- 31 thiophene analog of acetylfentanyl
- 32 (N-[1-[2-(2-thienyl)ethyl]-4-piperidiny] acetanilide) or a
- 33 derivative thereof.
- 34 (47) 1-Methyl-4-Phenyl-4-Propionoxypiperidine (MPPP).
- 35 (48) 1-(2-Phenethyl)-4-Phenyl-4-Acetyloxypiperidine
- 36 (PEPAP).
- 37 (c) Opium derivatives. Unless specifically excepted or unless
- 38 listed in another schedule, any of the following opium
- 39 derivatives, its salts, isomers, and salts of isomers whenever the

1 existence of those salts, isomers, and salts of isomers is possible
2 within the specific chemical designation:

- 3 (1) Acetorphine.
- 4 (2) Acetyldihydrocodeine.
- 5 (3) Benzylmorphine.
- 6 (4) Codeine methylbromide.
- 7 (5) Codeine-N-Oxide.
- 8 (6) Cyprenorphine.
- 9 (7) Desomorphine.
- 10 (8) Dihydromorphine.
- 11 (9) Drotebanol.
- 12 (10) Etorphine (except hydrochloride salt).
- 13 (11) Heroin.
- 14 (12) Hydromorphenol.
- 15 (13) Methyldesorphine.
- 16 (14) Methyldihydromorphine.
- 17 (15) Morphine methylbromide.
- 18 (16) Morphine methylsulfonate.
- 19 (17) Morphine-N-Oxide.
- 20 (18) Myorphine.
- 21 (19) Nicocodeine.
- 22 (20) Nicomorphine.
- 23 (21) Normorphine.
- 24 (22) Pholcodine.
- 25 (23) Thebacon.

26 (d) Hallucinogenic substances. Unless specifically excepted or
27 unless listed in another schedule, any material, compound,
28 mixture, or preparation, which contains any quantity of the
29 following hallucinogenic substances, or which contains any of its
30 salts, isomers, and salts of isomers whenever the existence of
31 those salts, isomers, and salts of isomers is possible within the
32 specific chemical designation (for purposes of this subdivision
33 only, the term “isomer” includes the optical, position, and
34 geometric isomers):

- 35 (1) 4-bromo-2,5-dimethoxy-amphetamine—Some trade or
36 other names:
37 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine;
38 4-bromo-2,5-DMA.
- 39 (2) 2,5-dimethoxyamphetamine—Some trade or other names:
40 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA.

- 1 (3) 4-methoxyamphetamine—Some trade or other names:
2 4-methoxy-alpha-methylphenethylamine,
3 paramethoxyamphetamine, PMA.
- 4 (4) 5-methoxy-3,4-methylenedioxy-amphetamine.
- 5 (5) 4-methyl-2,5-dimethoxy-amphetamine—Some trade or
6 other names:
7 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; “DOM”;
8 and “STP.”
- 9 (6) 3,4-methylenedioxy amphetamine.
- 10 (7) 3,4,5-trimethoxy amphetamine.
- 11 (8) Bufotenine—Some trade or other names:
12 3-(beta-dimethylaminoethyl)-5-hydroxyindole;
13 3-(2-dimethylaminoethyl)-5 indolol; N,N-dimethylserotonin,
14 5-hydroxy-N,N-dimethyltryptamine; mappine.
- 15 (9) Diethyltryptamine—Some trade or other names:
16 N,N-Diethyltryptamine; DET.
- 17 (10) Dimethyltryptamine—Some trade or other names: DMT.
- 18 (11) Ibogaine—Some trade or other names: 7-Ethyl-6,6beta,
19 7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido
20 [1',2':1,2] azepino [5,4-b] indole; Tabernantheiboga.
- 21 (12) Lysergic acid diethylamide.
- 22 (13) Marijuana.
- 23 (14) Mescaline.
- 24 (15) Peyote—Meaning all parts of the plant presently
25 classified botanically as *Lophophora williamsii* Lemaire, whether
26 growing or not, the seeds thereof, any extract from any part of
27 the plant, and every compound, manufacture, salts, derivative,
28 mixture, or preparation of the plant, its seeds or extracts
29 (interprets 21 U.S.C. Sec. 812(c), Schedule 1(c)(12)).
- 30 (16) N-ethyl-3-piperidyl benzilate.
- 31 (17) N-methyl-3-piperidyl benzilate.
- 32 (18) Psilocybin.
- 33 (19) Psilocyn.
- 34 (20) Tetrahydrocannabinols. Synthetic equivalents of the
35 substances contained in the plant, or in the resinous extractives of
36 Cannabis, sp. and/or synthetic substances, derivatives, and their
37 isomers with similar chemical structure and pharmacological
38 activity such as the following: delta 1 cis or trans
39 tetrahydrocannabinol, and their optical isomers; delta 6 cis or

1 trans tetrahydrocannabinol, and their optical isomers; delta 3,4
2 cis or trans tetrahydrocannabinol, and its optical isomers.

3 (Since nomenclature of these substances is not internationally
4 standardized, compounds of these structures, regardless of
5 numerical designation of atomic positions covered).

6 (21) Ethylamine analog of phencyclidine—Some trade or
7 other names: N-ethyl-1-phenylcyclohexylamine,
8 (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl)
9 ethylamine, cyclohexamine, PCE.

10 (22) Pyrrolidine analog of phencyclidine—Some trade or other
11 names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCP, PHP.

12 (23) Thiophene analog of phencyclidine—Some trade or other
13 names: 1-[1-(2 thienyl)-cyclohexyl]-piperidine, 2-thienyl analog
14 of phencyclidine, TPCP, TCP.

15 (e) Depressants. Unless specifically excepted or unless listed
16 in another schedule, any material, compound, mixture, or
17 preparation which contains any quantity of the following
18 substances having a depressant effect on the central nervous
19 system, including its salts, isomers, and salts of isomers
20 whenever the existence of those salts, isomers, and salts of
21 isomers is possible within the specific chemical designation:

22 (1) Mecloqualone.

23 (2) Methaqualone.

24 (3) Gamma hydroxybutyric acid (also known by other names
25 such as GHB; gamma hydroxy butyrate; 4-hydroxybutyrate;
26 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate),
27 including its immediate precursors, isomers, esters, ethers, salts,
28 and salts of isomers, esters, and ethers, including, but not limited
29 to, gammabutyrolactone, for which an application has not been
30 approved under Section 505 of the Federal Food, Drug, and
31 Cosmetic Act (21 U.S.C. Sec. 355).

32 (f) Unless specifically excepted or unless listed in another
33 schedule, any material, compound, mixture, or preparation which
34 contains any quantity of the following substances having a
35 stimulant effect on the central nervous system, including its
36 isomers:

37 (1) Cocaine base.

38 (2) Fenethylline, including its salts.

39 (3) N-Ethylamphetamine, including its salts.

(g) *Stimulant and hallucinogenic substances. Any of the following substances possessing stimulant and hallucinogenic properties: 3,4-Methylenedioxymethamphetamine, also known as MDMA, XTC, or Ecstasy, that is contained in a drug product for which an application has not been approved under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 355).*

SEC. 2. Section 11056 of the Health and Safety Code is amended to read:

11056. (a) The controlled substances listed in this section are included in Schedule III.

(b) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of those isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under Section 1308.32 of Title 21 of the Code of Federal Regulations, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances.

(2) Benzphetamine.

(3) Chlorphentermine.

(4) Clortermine.

(5) Mazindol.

(6) Phendimetrazine.

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any compound, mixture, or preparation containing any of the following:

(A) Amobarbital

- 1 (B) Secobarbital
- 2 (C) Pentobarbital
- 3 or any salt thereof and one or more other active medicinal
- 4 ingredients which are not listed in any schedule.
- 5 (2) Any suppository dosage form containing any of the
- 6 following:
- 7 (A) Amobarbital
- 8 (B) Secobarbital
- 9 (C) Pentobarbital
- 10 or any salt of any of these drugs and approved by the federal
- 11 Food and Drug Administration for marketing only as a
- 12 suppository.
- 13 (3) Any substance which contains any quantity of a derivative
- 14 of barbituric acid or any salt thereof.
- 15 (4) Chlorhexadol.
- 16 (5) Lysergic acid.
- 17 (6) Lysergic acid amide.
- 18 (7) Methyprylon.
- 19 (8) Sulfondiethylmethane.
- 20 (9) Sulfonethylmethane.
- 21 (10) Sulfonmethane.
- 22 (11) Gamma hydroxybutyric acid, and its salts, isomers and
- 23 salts of isomers, contained in a drug product for which an
- 24 application has been approved under Section 505 of the Federal
- 25 Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 355).
- 26 (d) Nalorphine.
- 27 (e) Narcotic drugs. Unless specifically excepted or unless
- 28 listed in another schedule, any material, compound, mixture, or
- 29 preparation containing any of the following narcotic drugs, or
- 30 their salts calculated as the free anhydrous base or alkaloid, in
- 31 limited quantities as set forth below:
- 32 (1) Not more than 1.8 grams of codeine per 100 milliliters or
- 33 not more than 90 milligrams per dosage unit, with an equal or
- 34 greater quantity of an isoquinoline alkaloid of opium.
- 35 (2) Not more than 1.8 grams of codeine per 100 milliliters or
- 36 not more than 90 milligrams per dosage unit, with one or more
- 37 active, nonnarcotic ingredients in recognized therapeutic
- 38 amounts.
- 39 (3) Not more than 300 milligrams of dihydrocodeinone per
- 40 100 milliliters or not more than 15 milligrams per dosage unit,

1 with a fourfold or greater quantity of an isoquinoline alkaloid of
2 opium.

3 (4) Not more than 300 milligrams of dihydrocodeinone per
4 100 milliliters or not more than 15 milligrams per dosage unit,
5 with one or more active nonnarcotic ingredients in recognized
6 therapeutic amounts. Additionally, oral liquid preparations of
7 dihydrocodeinone containing the above specified amounts may
8 not contain as its nonnarcotic ingredients two or more
9 antihistamines in combination with each other.

10 (5) Not more than 1.8 grams of dihydrocodeine per 100
11 milliliters or not more than 90 milligrams per dosage unit, with
12 one or more active nonnarcotic ingredients in recognized
13 therapeutic amounts.

14 (6) Not more than 300 milligrams of ethylmorphine per 100
15 milliliters or not more than 15 milligrams per dosage unit, with
16 one or more active, nonnarcotic ingredients in recognized
17 therapeutic amounts.

18 (7) Not more than 500 milligrams of opium per 100 milliliters
19 or per 100 grams or not more than 25 milligrams per dosage unit,
20 with one or more active, nonnarcotic ingredients in recognized
21 therapeutic amounts.

22 (8) Not more than 50 milligrams of morphine per 100
23 milliliters or per 100 grams, with one or more active, nonnarcotic
24 ingredients in recognized therapeutic amounts.

25 (f) Anabolic steroids and chorionic gonadotropin. Any
26 material, compound, mixture, or preparation containing chorionic
27 gonadotropin or an anabolic steroid (excluding anabolic steroid
28 products listed in the "Table of Exempt Anabolic Steroid
29 Products" (Section 1308.34 of Title 21 of the Code of Federal
30 Regulations), as exempt from the federal Controlled Substances
31 Act (Section 801 and following of Title 21 of the United States
32 Code)), including, but not limited to, the following:

- 33 (1) Androisoxazole.
- 34 (2) Androstenediol.
- 35 (3) Bolandiol.
- 36 (4) Bolasterone.
- 37 (5) Boldenone.
- 38 (6) Chlormethandienone.
- 39 (7) Clostebol.
- 40 (8) Dihydromesterone.

- 1 (9) Ethylestrenol.
- 2 (10) Fluoxymesterone.
- 3 (11) Formyldienolone.
- 4 (12) 4-Hydroxy-19-nortestosterone.
- 5 (13) Mesterolone.
- 6 (14) Methandriol.
- 7 (15) Methandrostenolone.
- 8 (16) Methenolone.
- 9 (17) 17-Methyltestosterone.
- 10 (18) Methyltrienolone.
- 11 (19) Nandrolone.
- 12 (20) Norbolethone.
- 13 (21) Norethandrolone.
- 14 (22) Normethandrolone.
- 15 (23) Oxandrolone.
- 16 (24) Oxymestrone.
- 17 (25) Oxymetholone.
- 18 (26) Quinbolone.
- 19 (27) Stanolone.
- 20 (28) Stanozolol.
- 21 (29) Stenbolone.
- 22 (30) Testosterone.
- 23 (31) Trenbolone.
- 24 (32) Chorionic Gonadotropin (HGC).
- 25 (g) Ketamine. Any material, compound, mixture, or
- 26 preparation containing ketamine.
- 27 (h) Hallucinogenic substances. Any of the following
- 28 hallucinogenic substances: dronabinol (synthetic) in sesame oil
- 29 and encapsulated in a soft gelatin capsule in a drug product
- 30 approved by the federal Food and Drug Administration.
- 31 (i) *Stimulant and hallucinogenic substances. Any of the*
- 32 *following substances possessing stimulant and hallucinogenic*
- 33 *properties: 3,4-Methylenedioxymethamphetamine, also known as*
- 34 *MDMA, XTC, or Ecstasy, that is contained in a drug product for*
- 35 *which an application has been approved under Section 505 of the*
- 36 *Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 355).*
- 37 SEC. 3. No reimbursement is required by this act pursuant to
- 38 Section 6 of Article XIII B of the California Constitution because
- 39 the only costs that may be incurred by a local agency or school
- 40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the
2 penalty for a crime or infraction, within the meaning of Section
3 17556 of the Government Code, or changes the definition of a
4 crime within the meaning of Section 6 of Article XIII B of the
5 California Constitution.

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